

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**JEFFREY DINGER D/B/A CINEMA 4 AND §  
ROCKPORT CINEMA, INC. §**

*Plaintiffs, §*

**v. §**

**STATE FARM LLOYDS §**

*Defendant. §*

**CASE NO. 19-cv-00103**

**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

Defendant State Farm Lloyds files this Notice of Removal pursuant to 28 U.S.C. §1441(b) and 28 U.S.C. §1332(a).

**PROCEDURAL BACKGROUND**

1. Plaintiffs Jeffrey Dinger d/b/a Cinema 4 and Rockport Cinema, Inc. filed this action on February 21, 2019 against State Farm in the 343<sup>rd</sup> Judicial District Court in Aransas County, Texas. That case was docketed under cause number 19-0056 (the "State Court Action").
2. State Farm was served with process on March 7, 2019.
3. State Farm timely filed its Original Answer on March 29, 2019. State Farm filed an amended answer on April 2, 2019.
4. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 343<sup>rd</sup> Judicial District Court in Aransas County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division.

### **NATURE OF THE SUIT**

5. This lawsuit involves a dispute over the alleged non-payment of insurance benefits and the handling of Plaintiffs' claim for damages allegedly sustained as a result of a hurricane. *See Plaintiffs' Original Petition* at ¶ 12-14. Plaintiffs assert causes of action against Defendant for breach of contract, breach of the common law duty of good faith and fair dealing, several violations of Chapters 541 & 542 of the Texas Insurance Code, and several violations of the Deceptive Trade Practices-Consumer Protection Act ("DTPA"). *Id.* at ¶¶ 22-47.

### **BASIS FOR REMOVAL**

6. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiffs and State Farm) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

#### ***Diversity of Citizenship***

7. At the time the State Court Action was commenced, Plaintiff Jeffrey Dinger d/b/a Cinema 4 was and still is a resident and citizen of Texas. *See Plaintiffs' Original Petition* at ¶ 2. Plaintiff Rockport Cinema, Inc. was and is a Texas corporation with its principal place of business in Texas. *See Plaintiffs' Original Petition* at ¶ 3.

8. State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L*

*Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

9. Because Plaintiffs are both residents of Texas and Defendant is a resident of Illinois, the diversity of citizenship requirement is satisfied.

***Amount in Controversy***

10. In their Original Petition, Plaintiffs expressly seek “monetary relief in an amount over \$200,000 but not more than \$1,000,000.” *Plaintiffs’ Original Petition* at ¶ 6.

11. Therefore, on the face of the petition, the amount in controversy requirement is satisfied.

**REMOVAL IS PROCEDURALLY CORRECT**

12. This Notice of Removal is timely under 28 U.S.C. § 1446(b). State Farm was served with process on March 7, 2019.

13. Venue is proper in this Division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

14. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders in the State Court Action are attached herein to the Index of Matters Filed (Exhibits 1A – 1E).

15. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of State Farm Lloyds’ Notice of Removal was promptly given to all parties and to the clerk of the 343<sup>rd</sup> Judicial District Court in Aransas County, Texas.

16. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached herein to the Index of Matters Filed (Exhibit 1).

**PRAYER**

State Farm Lloyds respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds also requests any additional relief to which it may be justly entitled.

Respectfully submitted,

/s/ Elizabeth Sandoval Cantu

Elizabeth Sandoval Cantu

Fed. ID No. 310028/State Bar No. 24013455

**RAMÓN | WORTHINGTON, PLLC**

900 Kerria Ave.

McAllen, Texas 78501

(956) 294-4800 – Phone

**ATTORNEY IN CHARGE FOR DEFENDANT**

**Of Counsel:**

Sofia A. Ramon

Fed. ID No. 20871/State Bar No. 00784811

Dan K. Worthington

Fed. ID No. 15353/State Bar No. 00785282

Stephen W. Bosky

Fed. ID No. 3076205/State Bar No. 24087190

**RAMÓN | WORTHINGTON, PLLC**

900 Kerria Ave.

McAllen, Texas 78501

(956) 294-4800 – Phone

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 5th day of April, 2019, a true and correct copy of the foregoing document was sent to all counsel of record in this cause, to-wit:

Jeffrey L. Raizner  
Andrew P. Slania  
Amy B. Hargis  
Ben Wickert  
RAIZNER SLANIA LLP  
2402 Dunlavy Street  
Houston, Texas 77006  
Phone: 713-554-9099  
Fax: 713-554-9098  
[efile@raiznerlaw.com](mailto:efile@raiznerlaw.com)  
*Attorneys for Plaintiffs*

/s/ Stephen W. Bosky

Stephen W. Bosky